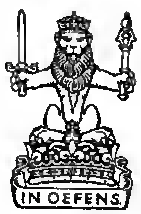
SCOTTISH HOME DEPARTMENT

Custodial Sentences for Young Offenders

Report of the Scottish Advisory Council on the Treatment of Offenders



EDINBURGH
HER MAJESTY'S STATIONERY OFFICE
1960
PRICE 1*s.* 6*d.* NET

SCOTTISH ADVISORY COUNCIL ON THE TREATMENT OF OFFENDERS

MEMBERS

* Mr. Harald R. Leslie, M.B.E., T.D., Q.C. (*Chairman*)
* Mr. D. A. P. Barry
* Mr. W. Hewitson Brown, O.B.E.
Sheriff W. J. Bryden
* Mr. J. Downie Campbell, J.P.
* Mrs. D. Davidson
Chief Constable David Gray
* Lieutenant Colonel C. S. Hampton, T.D., D.L.
Mr. J. Hill, O.B.E.
Mr. A. B. Hume
† Mr. W. G. Leburn, T.D., M.P.
The Marquess of Lothian
Mr. J. A. Mack
Mr. A. D. MacKellar, O.B.E.
Mrs. Alison W. Mackenzie
Professor A. A. Matheson, Q.C.
* Canon Peter Morrison
* Mr. Norman Murchison, O.B.E.
* Sheriff A. M. Prain
The Reverend R. Leonard Small, O.B.E., D.D.
* Mr. Tom Steele, M.P.
* Dr. Martin M. Whittet, M.R.C.P.E., D.P.M.

Secretary: Mr. T. M. Martin

† Mr. Leburn resigned on 2nd November, 1959.
* A member of the Committee on Custodial Sentences for Young Offenders.

27 QUEENSFERRY ROAD,
EDINBURGH, 4.
21st January, 1960.

SIR,

When you appointed the Advisory Council on the Treatment of Offenders you suggested that as one of their first tasks the Council might examine the law relating to custodial sentences for young offenders.

At the first meeting of the Council on 9th March, 1959, a committee was appointed to examine the law relating to custodial sentences for offenders between 17 and 21, taking into account the Prison Commissioners' proposals on this matter in England and Wales.

The committee heard evidence and prepared a report for consideration, in the first place, by the Council.

The Council endorsed the committee's report, and I have the honour, on behalf of the Council, to submit it to you.

I am, Sir,

Your obedient Servant,

HARALD R. LESLIE

THE RT. HON. JOHN S. MACLAY, C.M.G., M.P.,
Her Majesty's Secretary of State for Scotland

Note: The estimated cost of preparing and publishing this Report is £294 17s. 7d. of which £65 7s. 7d. represents the estimated cost of printing and publication.

Report on Custodial Sentences for Young Offenders

APPOINTMENT AND REMIT

1. We were appointed by the Advisory Council on 9th March, 1959, " to examine the law relating to custodial sentences for offenders between 17 and 21, taking into account the Prison Commissioners' proposals on this matter in England and Wales". As we are thus concerned only with convicted offenders between these age limits, the law relating to committal of young persons to custody in a remand home and to the sending of young persons to an approved school does not fall within our consideration. Our task is consequently restricted, so far as the existing law is concerned, to sentences of imprisonment (including imprisonment for failure to pay a fine), borstal training, and detention in a detention centre. In this report the term " young offenders " means convicted young persons between 17 and 21 years sentenced by a court to a period of custody.

2. We have held ten meetings. We have all visited one or more of the prisons and borstal institutions in Scotland where young offenders serve custodial sentences, and four of our number have visited borstal institutions in England.

3. We have considered not only the law as it stands in relation to this particular age group, but also as it is implemented in the various establishments where young offenders serve their sentences. We have taken evidence from a number of people closely connected with the treatment of young offenders detained in Scottish institutions as a result of a court sentence. In addition, we made enquiries about the functions of detention centres in England (there being as yet no detention centre in Scotland, although there has been statutory power to provide such centres since 1949), and we received evidence from the Warden of a senior detention centre in England. We are grateful for the full information that was given by the witnesses who appeared before us and for the facilities provided by the Prison Commissioners for some of us to see detention centres in England in operation. A list of those who have given evidence to us appears as an appendix to this report.

4. As a result of the evidence we have received and of our visits and discussions we have formed conclusions on a number of different aspects of the penal treatment of convicted young offenders ordered to be kept in custody. Before reaching these conclusions we examined very fully the existing schemes of treatment and training in the institutions in order to assess their effectiveness in carrying out the intentions of the law and of the courts. We felt we had first to enquire about the present treatment of young offenders in custody before we felt competent to comment on the existing law or on the proposals of the Prison Commissioners in relation to Scottish conditions. Many of the conclusions we have reached and the opinions we have formed about the scope and purpose of treatment in the institutions have to do with the more effective carrying out of existing statutory directions, or of rules and regulations made under them, and it would not be appropriate to record them in this report, concerned as it is with the law relating to custodial sentences.

5. For the purposes of this report the statutory provisions which now govern custodial sentences on young offenders are summarised in the paragraphs below. For the sake of completeness reference is made to one or two provisions which do not directly relate to the terms of our remit.

Courts' general powers of imprisonment

6. Offenders convicted of common law offences in Justice of the Peace Courts or in Burgh (or Police) Courts may be sentenced to imprisonment for terms not exceeding 60 days; if so convicted in the Sheriff (Summary) Court or in the Stipendiary Magistrate's Court in Glasgow they may be sentenced to three months' imprisonment, or, in certain cases where there have been two previous convictions for the same kind of offence, to six months. An offender convicted on indictment in the Sheriff Court may be sentenced to imprisonment for a maximum of two years. The High Court has unlimited powers of imprisonment. For a statutory offence the maximum term of imprisonment is laid down in the Act which creates it.

Sentences of imprisonment on young persons

7. By section 18 of the Criminal Justice (Scotland) Act, 1949 (usually referred to in this report as "the Act") a person under 17 years of age may not be sentenced to imprisonment. A person under 21 years may not be sentenced to imprisonment unless the court, after obtaining information about the offender's circumstances and taking into account any information about his character and physical and mental condition, is of the opinion that no other method of dealing with him is appropriate. A court of summary jurisdiction other than a sheriff court or a stipendiary magistrate's court must state the reason for its opinion that no other method of dealing with him is appropriate.

8. When the Act was passed it was evidently intended that imprisonment of young persons, at least in prisons in which convicted adult prisoners were serving their sentences, should be abolished as soon as might be. This appears in the provision in section 18 of the Act which authorises Her Majesty by Order in Council to prohibit the courts from sentencing to imprisonment persons under the age of 21 years, or under such lower age between 17 and 21 as may be specified. Such an Order in Council, which may be limited in application to particular classes of court or to one of the sexes, may be made only if the Secretary of State is satisfied that adequate means of dealing with the offenders concerned, other than imprisonment, are available to the courts. It was apparently contemplated that with the setting up of the then projected detention centres and, no doubt, with an extended use of borstal training, there would be no need to put young offenders into premises in which convicted adults were serving their sentences.

9. The restrictions on imprisonment of young offenders and the conditions referred to above do not apply where a court orders that a young person be imprisoned in default of payment of a fine.

Committal of young persons to prison before trial or sentence

10. A person not under 17 years but under 21 charged with an offence, or convicted of an offence but not sentenced, may, if not released on bail, be detained in a prison until his case is disposed of by a court. A person 14 or over but under 17 years may be so detained in a prison only if the court certifies that he is of so unruly or depraved a character that he cannot be detained in a remand home. A person under 14 years may be detained before trial or sentence only in a remand home.

Remission

11. A person sentenced to imprisonment is entitled under section 20 of the Prisons (Scotland) Act, 1952, to remission; the present rate of remission is one-third of the sentence. Remission is not granted on sentences of less than thirty days, and sentences over thirty days may not be reduced by remission to less than thirty. It is stated in the Prison (Scotland) Rules, 1952, that remission is granted " with a view to encouraging special industry and good conduct."

Release on licence of a prisoner under 21

12. A prisoner under 21 at the commencement of his sentence may, instead of being granted remission, be released on licence on the date on which he would have been entitled to be released with remission. The licence includes, among other conditions that may be imposed, one requiring him to be under the supervision of a society or person specified in the licence. The period of supervision is equivalent to the period represented by the amount of remission, or a period of six months if longer. Failure to comply with any requirements of the licence may render him liable to recall to prison, on an Order by the Secretary of State, for the remainder of the period of six months or, if it is shorter, for the unexpired part of his sentence.

Sentence of borstal training

13. A young person not less than sixteen years and under twenty-one convicted on indictment or convicted summarily in a sheriff court or a stipendiary magistrate's court of an offence punishable with imprisonment may, in lieu of any other sentence, be required to undergo a period of training in a borstal institution. Before passing such a sentence the court must be satisfied, having regard to the offender's character, previous conduct, and the circumstances of the offence, that it is expedient for his reformation and the prevention of crime that he should undergo a period of borstal training. A Justice of the Peace Court or a Burgh (or Police) Court does not have power to impose a sentence of borstal training.

14. To help the court in reaching a decision, a report on the offender's physical and mental condition and his suitability for borstal training must be furnished. The duty of seeing that a report is furnished is laid on the Secretary of State. The court may, on its own behalf or on behalf of the offender, call on anyone concerned with the preparation of the report, or with knowledge of

the matters dealt with in it, to appear before it and be examined on oath regarding any matter dealt with in the report. A copy of the report must be given by the clerk of the court to the offender or his solicitor at least two days before the young person appears in court for sentence. There is no statutory restriction, e.g. by reason of a previous sentence involving custodial treatment, on the type of young person who may be sentenced to borstal training.

15. Section 34 of the Prisons (Scotland) Act, 1952, provides that a young person sentenced to borstal training may be temporarily detained elsewhere than in a borstal institution until he can be transferred to the latter. It is under this provision that a young offender sentenced to borstal training is generally lodged for a period in a prison until a vacancy occurs in a borstal institution.

16. There is no minimum period laid down in statute for a borstal sentence passed by a court in Scotland. The maximum period is, by section 33 of the Prisons (Scotland) Act, 1952, one of three years from the date of sentence, but within that maximum the actual length of the training is determined by the Secretary of State, who must, for this purpose, consider any report made to him in the matter by the Visiting Committee for the institution. The actual period of borstal training in Scotland averaged, until some two years ago, 18 months; but it has since been progressively lowered and now averages 14–15 months.

Supervision on release from borstal institution

17. For a period of a year from the date of his release, or up to a date three years from the date of his sentence if this is earlier, the released inmate is subject to supervision. During this period—unless the Secretary of State otherwise directs—he must be under the supervision of a specified person or society. Almost invariably, the released inmate is placed under the supervision of the After-Care Council, a body appointed by the Secretary of State under section 18 of the Prisons (Scotland) Act, 1952. The officers of the Council undertake, in compliance with the statutory duties of the Council, to assist the released inmate. This assistance includes help in finding employment, securing lodgings where necessary, giving financial help on a limited scale, and the finding of guardians willing to take a personal interest in the youth's welfare.

18. On his release an inmate is given a notice which specifies the conditions which he is required to observe while under supervision. If the Secretary of State is satisfied that a released inmate has failed to comply with any requirement of the notice he may recall him to a borstal institution for a further period. This period may be up to one year from the date of the inmate's being taken again into custody, but the Secretary of State may at any time within that period, and after taking into account any report by the Visiting Committee, authorise his release.

Transfer of a borstal inmate to prison and of a young prisoner to a borstal institution

19. A borstal inmate who is incorrigible or is exercising a bad influence on other inmates of the institution may, by section 32 of the Prisons (Scotland)

Act, 1952, be transferred to a prison to undergo the unexpired portion of his sentence. Where in a particular case such a course has been recommended by the Visiting Committee to the Secretary of State the latter may make an application to the Sheriff within whose jurisdiction the institution is, and the Sheriff may commute the unexpired part of the borstal sentence to a period of imprisonment not exceeding that part.

20. A person under 21 serving a sentence of imprisonment may be transferred to a borstal institution if the Secretary of State, after consultation, where practicable, with the court which passed the sentence of imprisonment, considers it would be to his advantage to undergo borstal training. A young prisoner so transferred is dealt with as if he had been sentenced to borstal training on the date of transfer, but he may not be detained beyond the date of expiration of his prison sentence.

Sentence of detention in a detention centre

21. Section 19 of the Act of 1949 provides that a person not less than 14 but under 21 years of age who could be sentenced to imprisonment for the offence of which he has been convicted (or could be so sentenced except for the statutory restrictions on imprisonment) may be ordered by the court, if it is of opinion that no other method of dealing with him is appropriate, to be detained in a detention centre. There is no requirement that the court consider a report specifically on the offender's suitability for a detention centre; but to determine whether a method of dealing with him other than imprisonment is appropriate the court must consider information furnished by a probation officer or otherwise, about his circumstances, character and physical and mental condition (see paragraph 7 above). A court may make an order only after it has been notified by the Secretary of State that a detention centre is available to which young offenders convicted in that court may be sent. The court must specify the centre in the detention order. The maximum period of detention in a centre is three months; if the maximum term of imprisonment which might otherwise have been imposed for the offence is less than three months, the maximum term of detention shall not exceed that term of imprisonment. The period of detention in a centre which may be ordered by Justice of the Peace Courts and Burgh (or Police) Courts is accordingly restricted to sixty days.

22. There are restrictions on the type of offender who may be sent to a detention centre. A court may not order a person who has previously been sentenced to imprisonment or to borstal training to be detained in a detention centre, nor a person who has already been detained in a centre if he was 17 years or more when the order of detention was made.

23. Persons detained in a detention centre may get remission for good conduct, the rate of remission to be determined by the Secretary of State. The present rate of remission is one-sixth, but remission applies only where the sentence is for more than one month.

24. There is no statutory provision for a period of supervision following an inmate's release from a detention centre.

Detention in a centre in default of payment of a fine

25. A young person who has failed to pay a fine may be ordered by a court to be detained in a detention centre instead of in a prison for the period, not exceeding three months, specified as an alternative in the original sentence. (If the period exceeded three months the offender would require to be sent to prison.)

Custody in a detention centre instead of in a remand home

26. A person under 17 years who but for the restrictions on imprisonment on young persons could be sent to prison for the offence of which he has been found guilty may, under section 58 of the Children and Young Persons (Scotland) Act, 1937, be ordered by the court to be kept in custody in a remand home for a maximum period of one month. By section 19 of the Criminal Justice (Scotland) Act, 1949, a court may not make such an order in respect of an offender not less than 14 and not more than 17 years, if it has been notified by the Secretary of State that a detention centre is available to which the offender might be sent from that court.

Remand centres

27. To enable the court to obtain a report on the physical and mental condition of a person not less than 14 and under 21—to help it to decide how to deal with the case—the Secretary of State has been given power in section 31 of the Prisons (Scotland) Act, 1952, to provide remand centres to which offenders might be remanded or committed in custody for trial or sentence. There must be provided in the remand centre facilities for the observation and examination of any person detained in it. There is no remand centre at the moment in Scotland.

28. If a court has been notified by the Secretary of State that a remand centre is available, the court must, under section 28 of the Act of 1949, commit to a centre instead of to prison a person 17 years or over but under 21, remanded or committed for trial or for sentence and not released on bail. A person of 14 years or over but under 17 certified by the court to be of so unruly or so depraved a character that he cannot be, or is not fit to be, detained in a remand home, shall similarly, if a remand centre is available, be detained in the centre instead of in a prison.

29. There may also be committed to an available remand centre a person not less than 14 years but under 17 remanded in custody in respect of whom the court is satisfied that facilities for an enquiry into his physical and mental condition are not available in a remand home, or cannot otherwise be provided.

CONSIDERATION AND PROPOSALS

30. In considering the evidence and material submitted to us we have kept in view that the sanctions of the criminal law must combine a punitive and deterrent content in the public interest with purposive, reformative treatment

of the offender. With regard to young offenders, the latter aspect is of great moment. We also felt that, particularly in the case of such offenders, it is very important that the administrative framework and institutions should provide variety and flexibility to ensure that the discretion of the court as exercised in the sentence imposed is given full effect. Basically, the appropriate sentence in each case must remain the duty and responsibility of the court. To this end it is imperative that the courts should be given the fullest, informed reports concerning each individual offender and his relevant circumstances prior to imposing sentence, and that they should be fully aware of the complete range and consequences of the sentences open to them and within their competence.

We would strongly emphasise that the whole purpose of reformative treatment is nullified if the requisite institutions do not exist or if they are not provided with adequate and qualified staffs.

31. It is implicit in our approach to the problem that the result should be an individual rehabilitated to take his or her place anew in the community in the context of a safeguarded public.

32. We have considered very carefully the proposals of the Prison Commissioners as set out in the White Paper published in February, 1959, " Penal Practice in a Changing Society ", which applied only to England and Wales. We have studied also the report, published in October, 1959, of the English Advisory Council on the Treatment of Offenders, which commented in some detail on the Commissioners' proposals and made a number of further recommendations. While we recognise that in principle there may be general accord between the two countries in general policy and in the treatment of young offenders we see no reason to strive for a close similarity of outlook or practice. In both countries the aims are the same, the rehabilitation of the young offender and the protection of society. But certain differences in methods should provide opportunities of studying different ways of approach to the problems and the results of rather different lines of development. Accordingly in our enquiries, and in making our recommendations, we have had regard primarily to conditions in Scotland, but we have not tried to find a specifically Scottish reason for proposals that seem to us good in themselves.

33. In this report we deal only with the age group mentioned in our remit, namely, young persons between 17 and 21 years, and consequently we make no reference to children or young persons ordered to be sent to an approved school before reaching the age of seventeen and still detained in it beyond that age, nor to the powers of the courts to order a convicted young offender to be sent to an approved school. Nor do we deal with young persons in need of care or protection ordered to be sent to an approved school (which incidentally, we deplore), with young persons liable under section 57(2) of the Children and Young Persons (Scotland) Act, 1937, to be detained in such place as the Secretary of State may direct, or with young persons committed to a remand home.

Remand Centres

34. Throughout our enquiries and discussions references have repeatedly been made to the difficulties that the courts experience in not having before them comprehensive reports on the character, history, and home background

of young offenders who appear before them. Statutory provision already exists for the provision of remand centres in which such reports could be prepared. Committal of a young offender to a remand centre is not a custodial sentence in the sense of the term in our remit, but we have been so impressed with the need of remand centre reports to enable the courts to make understanding use of the sentences available to them that we feel justified in making reference to this matter before dealing with the general question of custodial sentences.

35. One of the distinctive and most progressive provisions of the Criminal Justice (Scotland) Act, 1949, was that which authorised the setting up of remand centres in which young persons not less than 14 years but under 21 could be detained between conviction and sentence or, if necessary, before trial. That provision was made primarily to provide the courts with the kind of information that would help them to determine how the young offender could best be dealt with, and to this end it was intended that the remand centre should have facilities for the collection of information about the offender and for assessment by qualified persons of his needs and potentialities. Young offenders remanded for further enquiries must at present be committed to a prison. On a not insignificant number of them relatively lenient sentences, such as probation or a fine, are imposed, or there is a finding of not guilty. A young offender should never be committed on remand to an institution for convicted offenders, and only the provision of adequate remand centre accommodation can ensure that they are not.

36. There is as yet no remand centre in Scotland.

37. We feel bound to assert that in our view none of the proposals that we consider later in this report is of greater urgency, or would be a more decisive step forward in penal methods, or be more warmly welcomed by the courts, than the provision of properly staffed remand centres. The case for them on humanitarian grounds is unanswerable. The services that could be provided by these centres are fundamental in helping towards an analysis and solution of the problems in issue. We must emphasise that through the lack of remand centres the courts are being seriously hampered in dealing with young offenders. The present statutory provision is entirely adequate to provide as many remand centres as may be necessary to give the courts the assistance they require and to keep remanded young offenders out of prison. We have, therefore, no proposals to make for new or amending legislation in this matter. Remand centres we regard as basic to the success of the methods of treatment of young offenders with which the remainder of this report deals. In a penal system in which the public interest is matched by concern for the welfare of the individual young offender the remand centre report is to the judge what the x-ray plate is to the surgeon. It enables the court to provide the appropriate reformative and punitive elements in treatment.

Custodial sentences

38. We now record our views on two of the existing custodial sentences that may be imposed on young offenders, a sentence of detention in a detention centre and a sentence of borstal training, and make suggestions for what seem to us desirable modifications in the present statutory provisions that apply to them.

Sentence of detention in a detention centre

39. In Scotland, as the law now stands, a young offender may in lieu of a sentence of imprisonment be sentenced to detention in a detention centre (which we refer to in this report as detention in a centre) for a term not exceeding three months. If, however, the term of imprisonment that could otherwise have been imposed were less, the term in the detention centre may not exceed that term. The idea underlying the sentence of detention in a centre is that quite a number of young offenders who would otherwise be sent to prison would benefit from having to submit themselves to a short period of fairly exacting discipline; not discipline of a negative nature, but calling for progressive effort leading to a sense of personal achievement. Life in a detention centre is intended to be more demanding, as well as more deliberately formative, than life in a prison. For young men who may be inclined to think that the law can be treated with impunity but who are not settled in law-breaking, this kind of intensive application to a training programme can be of much benefit. Experience has shown that some youths who are now sent to borstal institutions could, with greater advantage, undergo the shorter but more intensive course of training.

40. When it was introduced ten years ago it was the punitive or disciplinary aspect of the sentence that was given prominence. But it is now recognised that even for the comparatively short period of the sentence a scheme of training can be devised which is both positive and healthily vigorous. To balance its brevity the training in a centre must have a certain intensity of purpose, which might be described as a stimulus to the development of character. A period of training of not less than ten weeks (the normal period of three months with remission at the rate of one-sixth of the sentence) is we think necessary for the completion of any worthwhile training course. On the other hand, we are quite definitely of the opinion that a longer term in a centre would not result in a proportionate benefit. The training in the centre will call for continued effort and response from the young man right from the day of his arrival. Not the least important factor in its success will be the willingness with which he accepts the régime throughout his stay in the centre and co-operates with the staff. If he is obliged to maintain for too long the required standard of alertness and sharpness of response he will become stale and dispirited.

41. We therefore recommend that a sentence of detention in a centre should be for a standard term of three months, and that the power that courts now have to send young persons to a centre for periods of less than three months should be abolished. It would be difficult, if not impossible, to devise a type of treatment in detention that was other than purely custodial if those undergoing it were serving sentences of varying lengths. Moreover, if in the opinion of a court a young person's offence and record called for such a sentence rather than, say, a fine or a period of probation, a sentence of less than three months would not adequately represent the deterrent, nor would it fulfil the remedial, purpose of committal to a detention centre.

Sentence of six months in a detention centre not recommended

42. We do not recommend that there should be two standard sentences of detention, one for three months and one for six months. The number of young

persons for whom a term of more than three months in a detention centre would be considered appropriate would, in Scotland, be very small. What seems to us, however, the chief consideration, is this: that the virtue of the three months' detention centre training would go out of a training course modified to conform to a longer period of detention. Theoretically a course of suitable training might be devised for any length of sentence; but too short a period cannot achieve very much in any direction, and too long a period, for the type of young person we have in mind, would spoil the effect. We have settled on a standard period of three months partly because it is long enough to provide the courts with a sentence more severe than, or more appropriate for the offender than, the imposition of a fine or placing on probation, and partly because we feel assured, from the evidence given to us, that a period of three months has already been found in practice to be the optimum period for a course of training intended to achieve the purposes to which we have referred. It follows from what we have said that we should be strongly opposed to having in a centre geared to a three months' training course a few inmates serving a six months' period of detention. This mixing of inmates serving two different periods of detention would not make for the smooth running of a centre (and we say this with the welfare of the majority of the inmates in mind rather than the convenience of the staff), and where the number in an institution serving the longer period was at any one time small—as we think it would normally be in Scottish institutions—not very much in the way of positive training could be achieved. We therefore consider that provision should not be made in Scottish legislation for a sentence of six months' detention in a centre. Later in this report we make proposals for dealing with young offenders considered to require a custodial sentence, other than a borstal sentence, of more than three months.

Exceptional release before completion of 3 months' detention

43. We think it important that statutory power should be given to the Secretary of State to order, exceptionally, release on an earlier date than that on which the inmate would, with remission, be released. This power might be used, for example, where it subsequently transpired that the young person was not mentally or physically suitable for continued detention in the centre and that further detention might be harmful to him. We do not think that a statutory power of this nature, designed to meet the exceptional case, is incompatible with the determinate sentence imposed by the court; but if necessary the Secretary of State could be required, before exercising this power, to consult the court that imposed the sentence.

Second sentence of detention in a centre

44. We have given a good deal of thought to the question whether courts in Scotland should have power to sentence to detention in a centre a young offender on whom such a sentence had previously been imposed. The number of youths on whom a second sentence of detention in a centre would be likely to be passed in Scotland would probably be few; but the courts should not be precluded from passing such a second sentence in cases where they are satisfied

that there is no better way of dealing with the offender. We fully recognise that the presence in a centre of a youth who has already undergone detention centre training could be a disturbing influence in the progressive training of the other inmates. A second sentence of detention in a centre should therefore not be imposed unless the court, on a recommendation from the remand centre that such a sentence would be appropriate for the particular offender, considers a second sentence is clearly the right course. If the remand centre did not recommend a second sentence the court would (on our later proposals) have other means of dealing with him.

45. A second sentence of detention in a centre should not be served in the centre in which the first one was served.

Sentence of detention following a borstal sentence

46. Whether a term in a detention centre would be of benefit for a young offender convicted on a fresh charge after completing a sentence of borstal training is problematical. The régime in a detention centre is admittedly different from that in a borstal institution, and it is just possible that a spell of the closer supervision and discipline of a centre would benefit a youth who had not apparently made very much of the extended training given in a borstal institution. There might well be occasions when a court considered, in the light of reports from the remand centre, that a young offender who had already undergone borstal training and had been found guilty of a not very serious offence would be helped by undergoing for three months the vigorous life of a detention centre. A lad who had already been in a training institution for a year or more might not be, we suspect, the type whom a detention centre training could be expected to benefit very much, but we think it right that the court should be able, after considering a recommendation from the remand centre as to the suitability of this course, to send to a detention centre the occasional ex-borstal inmate for whom such a sentence seems the appropriate one. In recommending accordingly we would add that, if our later proposals for custodial treatment are approved, we should expect that a sentence of detention in a centre after a borstal sentence would be exceptional.

Removal from a detention centre to a custodial centre

47. We have been informed that the existing provisions for the removal of a young offender from a prison to a borstal institution and *vice versa* (see paragraphs 19–20) are seldom used. They are, however, provisions which are useful to meet the exceptional case. We consider that similar provision should be made to permit the removal from a detention centre to a custodial centre (of the kind we recommend later in this report) of an inmate who is persistently unco-operative or unable to benefit from the training given in the centre. He would be required to serve in the custodial centre the remainder of his detention sentence, and on transfer to the centre he would be treated in every respect as if the term of three months had been originally imposed as one to be served in a custodial centre.

After-care and recall

48. There is at present no statutory after-care for a young person who has completed his period of detention in a centre. We are strongly of opinion that a period of supervision following discharge from a centre (including discharge on a second sentence) should be an integral part of the sentence. We recommend that the maximum period of supervision should be six months from date of release but that there should be provision for cancellation of supervision, on an order by the Secretary of State, at any time after release. There will be, we are sure, not a few cases where there will be satisfactory evidence that supervision can be stopped comparatively soon after release without detriment to the welfare of the young persons, and there would seem to be some advantage in encouraging released inmates to earn an early removal of the supervision requirements.

49. A person under supervision after release from a detention centre who failed to observe one or more of the conditions of supervision would, on the analogy of the present statutory provision in regard to borstal licence-holders, be liable to recall to the institution for a period up to the date of termination of sentence, i.e. for a period of about two weeks, representing the maximum amount of remission on his sentence. We do not think that recall for so short a period would be an adequate consequence of non-observance of the conditions. So puny a punishment for misconduct or wilful neglect of the conditions would be of little help to those whose duty it was to supervise and encourage other released inmates who were similarly under supervision. We take the view that the period of recall should be a standard period of four weeks. But recall should not be to a detention centre. The presence of a recalled youth in a centre, possibly the one in which he had served his sentence, would be at the least an embarrassment, and probably a disturbing influence on the other inmates. Repetition, of a part only, of a training course already undergone is not likely to have much constructive value for the offender himself. We think it should be acknowledged that recall is intended to be primarily a punishment for deliberate non-compliance with the conditions which he knew he was required to observe during the period of supervision. We recommend that the period of recall should be served in the type of institution to which we refer in paragraph 65.

Detention in a centre not to be imposed in default of payment of a fine, etc.

50. The existing power of the courts to order a young offender to be detained in a detention centre in default of the payment of a fine (or other sum of money) should be abolished. A youth in respect of whose offence a sentence of detention in a centre was not considered by the courts to be appropriate at the time of his conviction should not, as a consequence of refusing to pay the fine imposed, be sent to this kind of specialised institution. The presence in a centre of such youths, who would be there for varying periods, sometimes for no more than a few days, would seriously upset the training programme of the ordinary inmates.

The alternative sentence to the payment of a fine should be, for a young offender, a period in custody in a custodial centre (see paragraphs 65 and 68 of this report).

Sentence of borstal training

51. A sentence of borstal training is at present for a maximum period of three years. But this upper limit is of little practical interest and is a relic of the time when it was thought that borstal training could not be effective if it lasted, even in favourable circumstances, for less than two years. In Scotland the average period of detention in a borstal institution has for some years been less than twenty months and is at present not more than fifteen months. We have been assured that this reduction has not been at the cost of loss of effectiveness in the training. It has been found that the average inmate reaches his peak response to present-day training programmes and methods by about fifteen months and to keep him longer in the institution leads to lessened interest and often to a feeling of frustration. The whole object of borstal training is the ultimate well-being of the individual, and it would certainly not be in the youth's own interest that he should go out in an unsettled state of mind to resume his life as a responsible citizen in the community.

Maximum period of borstal training

52. We accordingly see no point in maintaining as the maximum of the sentence a period of training so out of relation with the actual period now normally served in the training institutions. A maximum period of two years is in our view amply sufficient to meet all needs. As now, the actual training period, within the maximum period of two years, would be determined by the Secretary of State.

No minimum period of borstal training

53. There is at present no minimum period specified for a sentence of borstal training imposed by a court in Scotland, and we recommend that no change be made. We cannot see any advantage—particularly in the context of our other recommendations—in having a minimum period laid down in statute. The existing practice of leaving to the Secretary of State (assisted and advised by the Visiting Committees of the several institutions) the decision when the individual inmate should be released from the borstal institution has hitherto worked well and there is no point in fettering his discretion by embodying in the sentence a minimum term of training. The absence of a specified minimum has not hitherto, and should not in future, result by itself in a lower average period of training. In any case, the period in a borstal institution, for the generality of inmates as for individuals, should be determined by the response to the training given and not be related to a minimum period of sentence. The existence of a minimum, by seeming to imply that satisfactory training could in some cases at least be accomplished within that time, might suggest that the average period need not be much longer than the minimum. Moreover, the absence of a minimum allows the Secretary of State to order early release from the institution where, exceptionally, this appears to be called for.

Period of supervision after release

54. Release from actual training in an institution should be followed, as with the present borstal sentence, by a period under supervision and subject to conditions. The present period of supervision is for one year from the date of

release or up to three years from the date of sentence, whichever is the earlier, but the period of supervision may be curtailed by the Secretary of State.

55. We have no reason to believe that the period of one year of supervision (which applies to almost all borstal inmates released from a borstal institution in Scotland) has been found inadequate. A longer period would, we feel sure, be found irksome by the great majority of the released youths, and hardly less so by the supervisors, and prolonged supervision might become a matter of routine reporting rather than a positive personal relationship. We accordingly recommend that the period of after-care supervision should be one year from the date of release from the institution, with provision for exceptional earlier discharge by the Secretary of State.

Recall for failing to comply with conditions of licence

56. Under existing legislation a borstal licence-holder (the statutory notice required to be given to the borstal inmate on release is usually referred to as a licence) who fails to observe the conditions of the licence or otherwise seriously misbehaves may be recalled to a borstal institution for a period of not more than a year, his release thereafter being determined by the Secretary of State on the advice of the appropriate Visiting Committee. The period of recall, we have been informed, seldom exceeds eight months and is sometimes as low as three months.

57. The recall of a borstal licence-holder is often referred to as recall for further training; but there is, however, no reference to further training in the relevant statutory provision, which speaks only of recall to an institution. As recall is to a borstal institution the recalled inmate must get a training of some kind; but when, as now happens (purely as a temporary arrangement, we have been informed), the recall is to a borstal section in a prison, the training cannot be of a very constructive kind. Recalled youths cannot be re-absorbed into the training institutions. Even if they are housed in a separate borstal institution or in a separate part of an institution the comparatively short period of their stay, and the fact that they have already undergone the normal type of borstal training, make it almost inevitable that the recall period should amount to little more than a period of punitive detention, the consequence of not complying with the conditions of licence. We imagine that the power of recall is not infrequently exercised solely for the deterrent effect on other released inmates who may be inclined to treat too lightly the conditions of licence or the instructions of the after-care officers.

58. If this is so, we consider that the recall of a young person who has not complied with the conditions of his licence, or has been convicted while on licence and not otherwise disposed of by the court, should be overtly recognised for what in effect it is, namely, a punitive measure, and that a standard period of recall should be specified in statute. If, as we are inclined to believe, the period of recall is of little constructive value, then the standard period of recall should be restricted to one of three months. It would, however, be desirable to give the Secretary of State power to order earlier release in exceptional circumstances.

59. Where a licence holder was convicted of an offence the court could in its discretion allow a recall order to take effect for the standard period of three

months, or impose any other competent sentence. Where the court imposed a sentence an order of recall should not be put into effect. The imposition of a sentence would imply that, in the opinion of the court, recall was not the best way of disposing of the young offender.

Place where period of recall to be served

60. If our view of the nature of recall is adopted the question arises where the period of recall should be served. We do not think that a period of detention, the intention of which is in the main deterrent, should be served in an institution or part of an institution in which young persons are undergoing borstal training. Nor do we think that a separate institution within the training system should be set aside for them; such a course would probably not be justified for the numbers involved and would, moreover, require the secondment of staff whose special qualifications could be more profitably employed in the training institutions. We accordingly recommend that recalled licence-holders should serve the period of recall in the type of institution we refer to in paragraph 65 of this report.

Second borstal sentence not to be imposed

61. We do not recommend that courts should continue to have power to impose a second borstal sentence on a young person who, having already been given one borstal sentence, has been released from a training institution. We have received evidence about the disrupting effect that a youth who has been given a second borstal sentence can have on the training of other inmates of an institution. He is nearly always deeply resentful of being sent back to repeat a training course from which he has already failed to derive very much benefit and his resentment is apt to come out in a persistent refusal to co-operate with the staff and in encouraging other inmates to do likewise. He almost certainly derives no benefit himself from his second spell of training. The number sentenced to second borstal terms is so few that, in Scotland at any rate, arrangements for their separation from other inmates have not been found practicable. We are accordingly of opinion that a young person who has already served any part of a borstal sentence should not, on subsequent conviction, be sentenced to a second such sentence.

Borstal inmates not to be temporarily lodged in a prison

62. The authority given in section 34 of the Prisons (Scotland) Act, 1952, for the detention of borstal inmates in premises other than a borstal institution, until such time as they may be transferred to an institution, should be withdrawn. It is most desirable that the young offender should go direct from the court to begin the training which he has been ordered to undergo and that he should not have experience, however short, of any prison or penal institution other than a borstal institution. There is no statutory provision to enable a young person sentenced to detention in a centre to be accommodated elsewhere than in a centre; he must be taken direct from court to the centre. We feel strongly that an adequate number of places should be provided in borstal training institutions—or in a separate reception unit—to allow inmates to be

admitted to a borstal institution or to a borstal reception unit on the day on which sentence is passed. It may very occasionally be necessary to provide overnight accommodation (in police cells or otherwise) for an inmate sentenced at a distant court, but it should be exceptional for him to reach a borstal institution later than twenty-four hours after he has left the court. Administrative arrangements should be made to ensure his arrival without delay at the borstal institution.

Custodial sentence, other than a sentence of detention in a centre or a borstal sentence

Custodial sentence

63. The foregoing recommendations require that provision should be made for convicted young offenders not sent to a detention centre or to a borstal institution but for whom a sentence of a period in custody is considered by the court to be the appropriate way of dealing with them. Our conclusion is that for such young offenders a third kind of custodial sentence should be available to the courts, corresponding to their present powers of imprisonment. If a court considered that a custodial sentence was called for but one of detention in a centre or a borstal sentence was not appropriate, it would sentence the young offender to such a period in custody as in its discretion, and within its competence, it thought fit. The court should not be restricted to imposing such a sentence for periods other than those represented by the other two custodial sentences—detention centre and borstal. The power to impose this third custodial sentence, which would take the place, for young offenders only, of the present sentence of imprisonment, would run parallel with the powers of the court to impose a sentence of detention in a centre and a borstal sentence.

Custodial accommodation

64. There will accordingly require to be provided, on the basis of the above recommendation and certain earlier recommendations, some kind of custodial accommodation for the following:

(*a*) young offenders considered by the courts to require a period in custody and for whom a sentence of detention in a centre or a borstal sentence is not appropriate (paragraph 63);

(*b*) persons released from a detention centre or a borstal institution who, as a consequence of failing to comply with the conditions of their supervision, are recalled (paragraphs 49 and 60);

(*c*) young offenders who have defaulted on the payment of a fine or other sum of money (paragraph 50).

65. Fundamental to our recommendations is an institution to which all young persons on whom a custodial sentence is imposed, other than detention in a centre or a borstal sentence, could be sent direct from the courts. In existing Scottish prisons as we have seen them it is simply not possible to keep a group of young offenders apart from adult prisoners and at the same time provide the conditions, for work, education and recreation, in which youths should be detained. It may indeed be possible to provide conditions in which there is no physical contact between the group of young offenders and adult prisoners, but

if the latter are within sight or hearing of the youths there is not effective segregation. We regard it as very important that no young offender, including a young offender who has defaulted on the payment of a fine, should ever be detained inside a prison for adults. Among other compelling reasons, familiarity with the scene may well breed some contempt for the sentence.

66. We are aware that suggestions are being made which might eventually result in considerably fewer young persons having custodial sentences imposed on them, and it seems likely that in Scotland the number of young persons in custody, otherwise than in a detention centre or a borstal institution, will at any one time be relatively small. It seems reasonable to conclude that one institution, entirely separate from a prison, would suffice to accommodate all such young persons at one time in custody, including those in custody in default of payment of a fine.

Treatment of young offenders in custody

67. The young offenders sent to such an institution would all be there because a period of loss of freedom has been deemed an appropriate punishment or deterrent. They would not be there primarily to undergo a period of training; the period in custody would be intended by the court to be punitive and deterrent. But as ordinary imprisonment is coming to be recognised more and more as an opportunity for remedial effort on the part of the prison staffs so we should expect that in a custodial institution for young offenders a determined effort would be made to introduce an invigorating and positive régime which would embrace some of the features of detention centre training and of the training given to young persons serving a borstal sentence. The difficulties of management of such an institution, in which the range of sentences being served would be wide, would not be negligible; but they would probably, in sum, be less than the difficulties of trying to provide satisfactory conditions for groups of young offenders in prisons intended primarily for convicted adult prisoners, or of trying to fit into the training schemes in detention centres or in borstal institutions youths not suited for them.

Custodial sentence to be served in a custodial centre

68. We have considered whether for the young offenders mentioned in paragraph 64 above the custodial sentence imposed by the court should be described as a sentence of imprisonment or if some other description should be adopted. We should like to see the physical separation of convicted young offenders and convicted adult offenders, which we have recommended above, paralleled by a difference in the sentence pronounced. We recommend for consideration that, for the young persons in the categories with which we are now dealing, the sentence, of whatever length, should be simply one of a period "in custody." If thought desirable, the sentence might specify the institution in which it should be served, again with a view to differentiating it from a sentence of imprisonment. That institution—it is unlikely that for Scottish needs more than one institution will be required—might appropriately be designated "..... Custodial Centre."

Supervision following release from a custodial centre

69. With the exceptions of those young offenders sent to a custodial centre for failing to pay a fine or because they have been recalled on an order by the Secretary of State for breach of a condition of licence, young offenders released from a custodial centre should be released on a conditional licence and be under supervision for a period. This would be merely continuing the existing provision in section 20 of the Prisons (Scotland) Act, 1952 (see paragraph 12). We think, however, that the maximum period should be not six months but one year from the date of release, irrespective of the length of sentence; but that the Secretary of State should have power, on receiving a recommendation from the supervising society or person, to cancel the licence at any time before twelve months from release. For the majority of these young offenders the period under supervision should not, we think, normally exceed six months. The effect of this proposal is that all young offenders on whom a custodial sentence was passed (except those sentenced to a period in custody for failure to pay a fine) would be released on licence to undergo a period under supervision. We are in no doubt that the principle of after-care should be extended to all young offenders who have served a period in custody.

Recall to the custodial centre

70. For failure to observe the conditions of the licence the young offender should be liable to recall to the custodial centre, on an order by the Secretary of State, for a period equal to the remission granted on his sentence or, if that sentence was one of thirty days or less, for a period equal to one-third of his sentence. He would be treated in regard to subsequent after-care in the same way as a recalled borstal inmate, and remain liable to supervision for a period up to twelve months from the date of first release.

Three types of custodial sentence recommended

71. The recommendations we have made in this report would result in the appropriate courts having at their disposal three custodial sentences in respect of convicted young offenders:

(*a*) the proposed custodial sentence, the length of which would be fixed by the court and which would be served in a custodial centre;

(*b*) the proposed sentence of detention in a centre for a standard period of three months; and

(*c*) the proposed borstal sentence, with no fixed minimum but a maximum of two years.

Application of the above recommendations to girls and young women

72. Our recommendations apply in principle to girls and young women between 17 and 21 on whom sentences of custody in a penal institution are passed. The number of girls and young women who will be considered suitable for a sentence of detention in a centre will in Scotland probably be very few (only 53 girls and young women were sentenced to imprisonment in 1958 and

of these 40 served periods of one month or less). A separate detention centre for them may not be practicable. It must be a matter of administration to provide some kind of accommodation, entirely separate from that for convicted adult women, to which courts could send girls and young women for whom three months in a detention centre was considered to be the right sentence. A programme of training suitable for girls would of course have to be devised. We are in no doubt at all, however, that there should be a separate borstal institution for girls. The present arrangement of accommodating girls sentenced to borstal training in a separate part of a women's prison is not satisfactory. If the work of the staff in training the girls is to provide good results the right conditions must be provided. We therefore strongly recommend the provision, without delay, of a separate borstal institution for girls.

Proposed withdrawal from Justice of the Peace Courts and Burgh (or Police) Courts of the power to impose Custodial Sentences on Young Offenders

Present powers

73. Justice of the Peace Courts and Burgh (or Police) Courts do not have power to impose a sentence of borstal training. If one of these courts considers that a particular young offender charged before it would benefit from borstal training the case must be remitted to the Sheriff (or, within his jurisdiction, the Stipendiary Magistrate).

74. The only custodial sentences that, under existing law, these courts may impose on young offenders are imprisonment for a period not exceeding 60 days (see paragraph 6), or detention in a detention centre. As no centres have been opened in Scotland the power to send a young offender to a detention centre has not yet been exercised in these courts, and it cannot be exercised even after detention centres are provided until intimation is made by the Secretary of State that a detention centre is available for young persons dealt with in these particular courts.

75. The present statutory maximum of detention in a centre is three months; but as such a sentence is imposed on the convicted young offender in lieu of one of imprisonment the term of detention that may be imposed in a Justice of the Peace Court or Burgh (or Police) Court cannot exceed 60 days.

76. These courts may under existing powers send to prison or to a detention centre, if available, a young offender who has failed to pay a fine.

Effect on the powers of Justice of the Peace and Burgh (or Police) Courts of certain of the Committee's recommendations

77. Our recommendation that a sentence of detention in a centre should be for a standard term of three months clearly implies that such a sentence must be reserved to the High Court, the Sheriff Court and the Stipendiary Magistrate's Court, and we recommend accordingly. Retention by the Justice of the Peace Courts and the Burgh (or Police) Courts of their present statutory power

to impose a sentence of detention in a centre would involve one of two consequences; either abandonment of the principle, which we have strongly advocated, of a standard term of detention of three months, or the extension from 60 days to three months of the term for which these courts might send a young offender to a centre. As sending a young person to a detention centre is, under existing law, an alternative to a prison sentence, adoption of the latter course might seem to imply that the maximum term of imprisonment which might be imposed in these courts should similarly be raised. This would certainly be undesirable on general grounds. In view of our recommendation for the replacement of a sentence of imprisonment on young offenders by a sentence of a term in a custodial centre we have considered very fully and carefully the position of these courts in relation to custodial sentences on young offenders.

Custodial sentences and remand centre reports

78. It is now accepted doctrine that a convicted young offender should not be ordered to be detained in custody unless the court is satisfied, having regard to all the circumstances of the offender and the offence, that there is no other suitable method of dealing with him. Under the present law a Justice of the Peace and a Burgh (or Police) Court must, if it has sentenced a young offender to imprisonment, state the reasons for its opinion that no other method of dealing with him was appropriate—a provision which already emphasises that the sending of a young offender to a custodial institution of any kind should always be regarded as something to be done only in the last resort.

79. Our insistence on the need to provide the courts with comprehensive reports on accused young offenders has been prompted in part by a feeling that exhaustive consideration by the courts of the various ways, other than imprisonment, in which the young offender might be dealt with, is not always undertaken. Assessment of the information contained in these reports, and its application to the particular case being dealt with, will seldom be a straightforward proceeding; it will call for experience and knowledge of a highly specialised kind. To discriminate, for example, between a young offender for whom a sentence of detention in a centre is the appropriate disposal and one for whom a short term in a custodial centre would be the better course will require a very careful balancing of considerations.

80. The High Court, the Sheriff Court and the Stipendiary Magistrate's Court may impose on a young offender a sentence of imprisonment for any term within their respective powers, and on our proposals they will continue to have the same power in relation to the custodial sentence which we recommend should replace imprisonment for young offenders. They will continue to be the only courts able to impose a sentence of borstal training, and we have recommended (paragraph 77) that power to send a young offender to a detention centre should be restricted to them. The only custodial sentence left to the lower courts would, if the foregoing recommendations are accepted, be one of up to 60 days' custody in a custodial centre.

81. Because of our strong views on the importance of the functions of remand centres and the need for meticulous assessment of the reports on young offenders, and on the seriousness of imposing a custodial sentence of any kind on young persons, we are led to the conclusion that the High Court, the Sheriff

Court and the Stipendiary Magistrate's Court, as well as being the only courts empowered to impose a sentence of borstal training and (on our recommendation) a sentence of detention in a centre, should be also the only courts able to impose the proposed sentence of custody in a custodial centre. In practice, this would of course mean that the Sheriff Courts would impose all but a comparatively small proportion of such sentences, and this concentration should make for uniformity in sentencing policy. The number of Sheriff Courts in Scotland is not large, and it should be possible to establish between the courts and the remand centre or centres an agreed procedure in the arrangements for preparing and submitting reports which would facilitate the task of each. These courts, in close co-operation not only with the remand centres but also with the probation service and the custodial establishments, should be able to build up balanced standards, both in principle and practice, of appropriate treatment of young offenders in a variety of categories. The limited numbers of professionally qualified and experienced judges, with their continuity in office, should materially favour the establishment of generally acceptable standards without sacrificing flexibility. The treatment of young offenders has got beyond the stage of hit or miss methods or of being determined according to individual predilection. We do not think that it is possible for courts of which the personnel on the bench is regularly changing to acquire the knowledge and experience necessary to deal adequately with the problems of young offenders and to decide on the right kind of treatment.

Restriction of sentencing powers of lower courts

82. We recommend, therefore, that in future Justice of the Peace Courts and Burgh (or Police) Courts should not have power to impose any custodial sentence on a young offender. Where a young offender has been sentenced in a lower court to pay a fine and has failed to do so he should be remanded to the Sheriff Court for that court to consider whether a sentence of custody in a custodial centre should be imposed on him.

SUMMARY OF RECOMMENDATIONS

Remand centres

1. The provision of remand centres with qualified staffs for reporting purposes is imperative. It is essential that courts should have the fullest information about individual young offenders (paragraph 37).

Sentence of detention in a detention centre

2. A sentence of detention in a detention centre should be a standard sentence of three months (paragraph 41). The Secretary of State should, however, have power to order earlier release in exceptional cases (paragraph 43).

3. A sentence of detention in a centre for six months should not be introduced into Scottish legislation (paragraph 42).

4. A second sentence of detention in a centre should not be imposed unless the court, on a report from the remand centre, considers that a second sentence would be a suitable one for the particular offender (paragraph 44). A second sentence should not be served in the detention centre in which the first was served (paragraph 45).

5. A sentence of detention in a centre should be imposed on a young offender who has already served a borstal sentence only after taking into account a report from the remand centre as to the suitability of such a course (paragraph 46).

6. It should be possible to remove from a detention centre to a custodial centre an inmate who is persistently unco-operative (paragraph 47).

7. A young offender sentenced to detention in a centre should be under supervision for a maximum period of six months from the date of release from the centre but the Secretary of State should have power to terminate the period of supervision at any time (paragraph 48).

8. Failure to observe any of the conditions of supervision should render the young offender liable to recall for a period of four weeks. The period of recall should be served in a custodial centre (paragraph 49).

9. A young offender should not be sent to a detention centre because of failure to pay a fine (paragraph 50).

Sentence of borstal training

10. A sentence of borstal training should be for a maximum period of two years, the actual length of training being determined by the Secretary of State (paragraph 52); there should not be a statutory minimum period of training (paragraph 53).

11. Following release from the borstal institution the young offender should be under supervision for a period of a year; but the Secretary of State should have power to order, exceptionally, earlier termination of the period of supervision (paragraph 55).

12. A released borstal inmate who failed to comply with the conditions attached to the period of supervision should be recalled for a standard period of three months, but the Secretary of State should have power to order earlier release in exceptional circumstances (paragraph 58).

13. Where a young offender sentenced to borstal training was convicted during the period of supervision the court should have discretion to allow a recall order to operate or to deal with him in any other appropriate way (paragraph 59).

14. The period of recall should be served in a custodial centre (paragraph 60).

15. A borstal sentence should not be imposed on a young person who has already served such a sentence (paragraph 61).

16. A young person on whom a borstal sentence has been imposed should be taken at once to a training institution and not be lodged temporarily in any other place (paragraph 62).

Sentence of custody in a custodial centre

17. Courts should have power to impose a custodial (or "in custody") sentence, for any term, on young offenders for whom a sentence of detention in a centre or a borstal sentence is not appropriate (paragraph 63).

18. Young offenders serving a custodial sentence should be accommodated in a separate establishment (paragraph 65) in which suitable treatment would be given (paragraph 67).

19. The establishment in which a custodial sentence (which might be formally described as a sentence, for a specified period, in custody) is served might be called a " custodial centre " (paragraph 68).

20. A " custodial " sentence should be followed by a period on licence for a maximum of a year, with provision for earlier termination of the licence period (paragraph 69); if a young offender failed to observe the conditions of the licence he should be liable to recall to the centre for a period equal to the remission granted (paragraph 70).

Young offenders in default

21. The sanction for young offenders who fail to pay a fine should be a period in custody, to be served in a custodial centre (paragraph 50).

Application to girls and young women

22. The above recommendations apply in principle to girls and young women but detailed application of them must be left to administrative arrangement. A separate borstal institution for girls should be provided as soon as possible (paragraph 72).

Powers of courts

23. Justice of the Peace Courts and Burgh (or Police) Courts should not have power to impose on a young offender any custodial sentence (paragraphs 77 to 82). Young offenders who have failed to pay a fine imposed in these courts should be remanded to the Sheriff Court (paragraph 82).

* * *

We wish to record the sincere thanks of the Committee to our secretary, Mr. T. M. Martin. His comprehensive knowledge has greatly lessened our task, and his efficiency and courtesy have earned the warm gratitude of all our members.

HARALD R. LESLIE (*Chairman*)
D. A. P. BARRY
W. HEWITSON BROWN
J. DOWNIE CAMPBELL
MARGARET B. DAVIDSON
C. S. HAMPTON
PETER MORRISON
NORMAN MURCHISON
A. M. PRAIN
TOM STEELE
MARTIN M. WHITTET

T. M. MARTIN, *Secretary*
21st January, 1960

APPENDIX

The following witnesses gave evidence to the Committee:

Miss E. I. W. Hobkirk, C.B.E., T.D.,
Governor,
Greenock Borstal Institution and Prison.

Miss P. A. J. Leslie,
Psychiatric Social Worker (until April, 1959),
Polmont Borstal Institution.

Mr. J. Oliver,
Governor,
Polmont Borstal Institution.

Mr. C. K. Sutherland, M.A., DIP.ED.,
Education Officer,
Polmont Borstal Institution.

Mr. R. C. Vallance, B.SC., ED.B.,
Psychologist,
Polmont Borstal Institution.

Dr. K. R. H. Wardrop, M.B., CH.B., D.P.M.,
Consultant Psychiatrist,
Polmont Borstal Institution.

Mr. J. R. Watson,
Warden,
Blantyre House Senior Detention Centre,
Cranbrook,
Kent.

Printed in Scotland under the authority of Her Majesty's Stationery Office
by Bell & Bain, Ltd. Wt. 75214. K13